



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2006 REGULAR SESSION

HOUSE BILL NO. 472

WEDNESDAY, FEBRUARY 22, 2006

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

AN ACT clarifying that state lottery prizes paid in installments over time may be assigned under certain circumstances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 154A.110 is amended to read as follows:

2 (1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any
3 attachments, garnishments, or executions authorized and issued pursuant to statute
4 shall also be withheld if served upon the process agent of the corporation. This
5 section shall not apply to a retailer.

6 (2) The board shall adopt rules to establish a system of verifying the validity of tickets
7 claimed to win prizes and to effect payment of such prizes, except that:

8 (a) No prize, nor any portion of a prize, nor any right of any person to a prize
9 awarded shall be assignable, except as provided in subsection (6) of this
10 section. Any prize, or portion thereof, remaining unpaid at the death of a prize
11 winner shall be paid to the estate of such deceased prize winner or to the
12 trustee under a revocable living trust established by the deceased prize winner
13 as settlor, provided that a copy of such a trust has been filed with the
14 corporation along with a notarized letter of direction from the settlor and no
15 written notice of revocation has been received by the corporation prior to the
16 settlor's death. Following such a settlor's death and prior to any payment to
17 such a successor trustee, the corporation shall obtain from the trustee and each
18 trust beneficiary a written agreement to indemnify and hold the corporation
19 harmless with respect to any claims that may be asserted against the
20 corporation arising from payment to or through the trust. Notwithstanding any
21 other provisions of this section, any person, pursuant to an appropriate judicial
22 order, shall be paid the prize to which a winner is entitled.

23 (b) No ticket shall knowingly be sold to any person under the age of eighteen
24 (18), but this section does not prohibit the purchase of a ticket by a person

1 eighteen (18) years of age or older for the purpose of making a gift to any
2 person of any age. In such case, the corporation shall direct payment to an
3 adult member of the person's family or the legal guardian of the person on
4 behalf of such person. The person named as custodian shall have the same
5 powers and duties as prescribed for a custodian pursuant to the Uniform
6 Transfers to Minors Act.

7 (c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit,
8 altered, fraudulent, unissued, produced or issued in error, unreadable, not
9 received or not recorded by the corporation within applicable deadlines,
10 lacking in captions that conform and agree with the play symbols as
11 appropriate to the lottery game involved, or not in compliance with such
12 additional specific rules and public or confidential validation and security tests
13 of the corporation appropriate to the particular lottery game involved.

14 (d) No particular prize in any lottery game shall be paid more than once, and in
15 the event of a binding determination that more than one claimant is entitled to
16 a particular prize, the sole remedy of such claimants is the award to each of
17 them of an equal share in the prize.

18 (e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a
19 prize within three hundred sixty-five (365) days (for a ticket issued before
20 January 1, 1995), and within one hundred eighty (180) days (for a ticket issued
21 on or after January 1, 1995), or for a multistate lottery game within one
22 hundred eighty (180) days, after the drawing in which the prize was won. In
23 any Kentucky lottery game in which the player may determine instantly if he
24 has won or lost, he shall claim a prize within three hundred sixty-five (365)
25 days (for lottery games commenced or tickets printed or reprinted before
26 January 1, 1995), and within one hundred eighty (180) days (for lottery games
27 commenced or tickets printed or reprinted on or after January 1, 1995), or for

1 a multistate lottery game within one hundred eighty (180) days, after the end
 2 of the lottery game as announced by the corporation. However, a holder of a
 3 pull-tab lottery ticket shall claim a prize within the time period and in the
 4 manner printed on the ticket. If a valid claim is not made for a prize within the
 5 applicable period, the prize shall constitute an unclaimed prize for purposes of
 6 subsection (3) of this section.

7 (f) No prize shall be paid upon a ticket purchased or sold in violation of this
 8 chapter. Any such prize shall constitute an unclaimed prize for purposes of
 9 subsection (3) of this section.

10 (3) Any unclaimed prize money may be retained by the corporation and added to the
 11 pool from which future prizes are to be awarded or used for special prize
 12 promotions, or may be appropriated by the General Assembly directly from the
 13 corporation for any public purpose. For fiscal years 2000-2001 and 2001-2002, any
 14 unclaimed prize money in excess of six million dollars (\$6,000,000) shall be
 15 transferred to the affordable housing trust fund established by KRS 198A.710.

16 (4) The corporation is discharged of all liability upon payment of a prize.

17 (5) No ticket shall be purchased by and no prize shall be paid to any of the following
 18 persons:

19 (a) Any member of the board of directors, officers, or employees of the
 20 corporation;

21 (b) Any vendors or related entities, or any member of the board of directors,
 22 officers, employees of, partners in, or owners of any vendors or related entities
 23 to the vendors; or

24 (c) Any spouse, child, brother, sister, or parent residing as a member of the same
 25 household in the principal place of abode of any such person.

26 (6) The right of any person to receive payments due under a prize that is paid in
 27 installments over time by the corporation, excluding prizes payable for the

1 winner's life, may be voluntarily assigned, in whole or in part, if the assignment
 2 is made to a person or entity designated pursuant to an order of the Circuit Court
 3 located in the judicial circuit where the headquarters of the corporation is
 4 located. The Circuit Court shall issue an order approving a voluntary
 5 assignment, specifying the exact dollar amount of each prize payment or
 6 payments assigned, or any portion thereof, the dates of the payments being
 7 assigned, the name of the assignor as it appears on the lottery claim form or the
 8 full legal name of the assignor if different than the name as it appears on the
 9 lottery claim form, and the full legal name of the assignee to whom the assigned
 10 payments will be made, and directing the corporation to make the specified
 11 payments to the assignee, if all of the following conditions have been met:

12 (a) The assignment is in writing, executed by the assignor either before or after
 13 the effective date hereof, and by its terms, subject to the laws of this
 14 Commonwealth.

15 (b) The assignor provides a sworn affidavit attesting that the assignor:

- 16 1. Is of sound mind, in full command of his or her faculties, and is not
 17 acting under duress;
- 18 2. Has had the opportunity to receive independent legal, financial, and
 19 tax advice concerning the effects of the assignment;
- 20 3. Understands that he or she will not receive the prize payments, or
 21 portions thereof, for the years assigned;
- 22 4. Understands and agrees that with regard to the assigned payments, the
 23 Commonwealth, the corporation, and its respective officials and
 24 employees will have no further liability or responsibility to make the
 25 assigned payments to the assignor;
- 26 5. Has been provided with a one (1) page written disclosure statement in
 27 bold type, fourteen (14) point font or larger, setting forth:

- 1 a. The payments being assigned, by amounts and payment dates;
 2 b. The purchase price being paid; and
 3 c. The amount, if any, of any origination or closing fees that will be
 4 charged to the lottery winner; and
- 5 6. Has disclosed the existence or non-existence of a current spouse; and,
 6 if married, unless the court finds the assignor may make the
 7 assignment without the spouse's consent, the assignor has submitted
 8 to the court a signed and notarized statement wherein the spouse
 9 consents to the assignment.
- 10 (7) Written notice of any petition seeking court approval of an assignment under
 11 subsection (6) of this section and of a court hearing, if any, concerning the
 12 proposed assignment shall be delivered by certified mail, return receipt requested,
 13 to the corporation's registered agent at least fifteen (15) days prior to entry of the
 14 court order or a court hearing, if any. The corporation is not a necessary or
 15 indispensable party and is not required to appear in or be named as a party to any
 16 action seeking court approval of a voluntary assignment, but may intervene as of
 17 right in any such proceeding.
- 18 (8) A voluntary assignment under subsection (6) of this section shall not include or
 19 cover payments or portions of payments that are, at the time of entry of the court
 20 order, subject to offset or withholding due to:
- 21 (a) A defaulted or delinquent child support obligation;
 22 (b) A debt owed to a state agency; or
 23 (c) Any attachments, garnishments, or executions authorized and issued
 24 pursuant to statute and served upon the process agent of the corporation as
 25 set forth in subsection (1) of this section;
 26 unless appropriate provision is made in the court order to satisfy the obligation or
 27 obligations giving rise to the offset or withholding at the time of closing of the

1 assignment transaction. Each court order shall provide that any delinquent child
2 support obligation owed by the assignor as of the date of the court order and any
3 debts owed to a state agency by the assignor as of the date of the court order shall
4 be offset by the corporation first against remaining payments or portions thereof
5 then due the assignor and then against payments due the assignee each year until
6 paid in full.

7 (9) A court order approving a voluntary assignment under subsection (6) of this
8 section, together with any other order issued in connection with any one (1) prize
9 drawn, shall not require the corporation to divide any single prize payment
10 among more than three (3) different persons or entities.

11 (10) The Commonwealth, the corporation, and their respective officials and employees
12 shall be discharged of all further liability upon payment of a prize pursuant to
13 court order issued under subsection (6) of this section. It shall be the
14 responsibility of the assignor or the assignee to provide the corporation
15 information necessary for the corporation to identify the parties to any
16 assignment under subsection (6) of this section and to make the payments
17 assigned.

18 (11) The Kentucky Lottery Corporation may establish a reasonable fee, not to exceed
19 one thousand dollars (\$1,000), to defray any administrative expenses associated
20 with processing each assignment made pursuant to subsection (6) of this section.
21 The fee amount shall reflect the direct and indirect costs associated with
22 processing the assignments. A court order approving an assignment under
23 subsection (6) of this section shall direct the assignee to pay the fee to the
24 corporation no later than ten (10) days after entry of the order.

25 (12) A certified copy of a court order approving a voluntary assignment under
26 subsection (6) of this section shall be delivered by certified mail, return receipt
27 requested, to the corporation's registered agent at least thirty (30) days prior to

1 the date upon which the first assigned payment is to be paid to the assignee.
 2 Within ten (10) days of receipt of the court order, the corporation shall
 3 acknowledge in writing to both the assignor and the assignee its receipt of the
 4 court order and that the corporation shall thereafter make the prize payments in
 5 accordance with the court order.

6 (13) Subsection (6) of this section supersedes and prevails over any provision in the
 7 Uniform Commercial Code, including KRS 355.9-406.

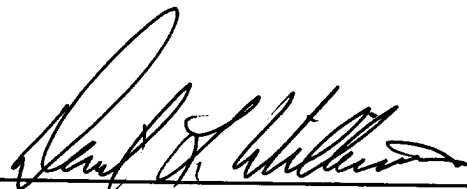
8 (14) The right to assign prize payments pursuant to subsection (6) of this section shall
 9 be suspended upon:

10 (a) The publication by the United States Internal Revenue Service, hereinafter
 11 referred to in this subsection as the "Service," of a revenue ruling or other
 12 public ruling of the Service, which rules that, based upon the right of
 13 assignment provided in subsection (6) of this section, Kentucky lottery
 14 prizewinners who do not assign any prize payments would be subject to an
 15 immediate income tax liability for the value of the entire prize rather than
 16 annual income tax liability for each installment when paid; or


17 (b) The issuance by a court of competent jurisdiction of a published decision
 18 holding that, based upon the right of assignment provided in subsection (6)
 19 of this section, a lottery prizewinner who does not assign any prize payments
 20 under that subsection would be subject to an immediate income tax liability
 21 for the value of the entire prize rather than annual income tax liability for
 22 each installment when paid.



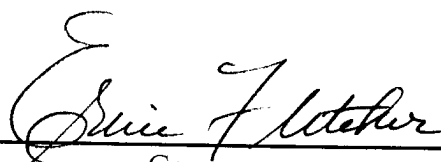
Speaker-House of Representatives



President of the Senate

Attest: 

Asst. Chief Clerk of House of Representatives

Approved 

Governor

Date 